

1 give you a ticket.

2 Q You heard all that?

3 A I heard that because I started walking over
4 there and I went to ask him, where would be a safe place
5 to get all this done, and that's what I did. He goes
6 there's a truck stop up head, you can go down there and
7 hook up.

8 Q And so what happened after that?

9 A We waited until morning and then we moved down
10 there. They unhooked the truck from the other one and
11 they dragged it with a chain.

12 Q And then what did you do after that?

13 A After that Israel came with me and we drove down
14 to deliver the load.

15 Q And where did you deliver the load?

16 A Here in Laredo.

17 Q So you and Israel spent a good amount of time
18 together then after the accident?

19 A Yeah, but I didn't speak much. I didn't want
20 him telling me anything about the accident. I seen too
21 many dead people. I don't want to hear about it anymore.

22 Q Well, let me ask you that specifically. Did you
23 have any discussions with Mr. Martinez?

24 A About the accident, no.

25 Q He never said anything to you about the way it

1 happened or anything like that?

2 A He just said, I was trying to pull up trying to
3 get turned around and all of a sudden I see a truck hit
4 me.

5 Q Did you have any discussions with Art or
6 Mr. Salinas, Roy Salinas?

7 A They just told me go down there deliver that
8 load. We'll see when we get down there.

9 Q Did you have any discussions with Mr. Rudy
10 Salinas about what happened in this accident?

11 A No. Like he asked me, did you see anything how
12 did it happen? I didn't see nothing.

13 Q Did you later on have any discussions with
14 Mr. Martinez or either the Salinas brothers about this
15 incident?

16 A No. I went back to work.

17 Q Did you -- and I again, I know what you said,
18 but let me ask you some other questions.

19 Did you ever at any point see anybody
20 spotting or assisting --

21 A No, sir.

22 Q -- Mr. Martinez in his driving of the tractor
23 trailer that evening?

24 A When the accident happened? Like I said, when I
25 came out he was parked right there. He was walking around

1 in the bottom.

2 Q Do you have any knowledge or information about
3 whether or not his tractor had been moved before you saw
4 it that evening --

5 A No.

6 Q -- or that morning whatever time?

7 A No.

8 Q Other than potentially Art and Mr. Martinez and
9 Mr. Salinas, are you aware of anybody who saw this
10 accident occur?

11 A No.

12 Q Again, I know what you said. Did you have any
13 contacts at all or have you ever had any contacts with
14 Mr. Brandon Lester?

15 A No.

16 Q Did you ever see him at any point this morning
17 or evening?

18 A No.

19 Q Is there any particular reason why you avoided
20 this whole scenario?

21 A I've seen too many dead people.

22 Q What do you mean by that?

23 A Too many accidents that I've come up on on the
24 highway, when I worked with electric company people
25 getting fried up there. Just not pretty sight.

1 Q Other than what you have told us about the
2 conversation that you heard between the trooper and
3 Mr. Martinez about the second time he was moving the
4 tractor, did you overhear any discussions between any of
5 the investigating officers or anybody else following this
6 accident?

7 A I didn't get close to anybody when that
8 happened.

9 Q I know that you indicated you didn't really see
10 much in the way of logbooks or keeping of a logbook on the
11 way up to Virginia. On the way back to Virginia did you
12 notice anything about the keeping of a logbook?

13 A I know Israel made one when he was coming back
14 down, but I don't know where he left it.

15 Q Did you all -- you all drove back together. Did
16 both of you drive on the way back?

17 A Yeah.

18 Q And you were driving your vehicle?

19 A The one that I drive.

20 Q Do you know what happened to the Salinas tractor
21 trailer that was broken down up in --

22 A The one that Roy?

23 Q -- the one you went to get?

24 A Roy brought it back with the SMC truck.

25 Q Was it repaired?

1 A Yeah. Then Israel ended up driving it there
2 again.

3 Q When you all-- when you first arrived at the
4 rest area from Texas, did you all use any kind of L.I.K.E.
5 warning cones or warning triangles --

6 A I got beacon lights on my truck.

7 Q I'm sorry.

8 A I got the beacon lights on my truck.

9 Q Were you using them?

10 A When I turned around I turned them on. Like I
11 said, I didn't pull much. I just came from in front of
12 the truck where Roy was parked, came back around his truck
13 and looped back around real quick, and I made sure I
14 didn't see any headlights coming up the opposite
15 direction.

16 Q As an experienced driver of tractor trailers
17 over many years, what were your thoughts about seeing
18 Mr. Martinez's tractor pointed in the opposite direction
19 that evening or morning?

20 MR. FRANKL: Objection to the form of the
21 question. You're asking from him an opinion as a driver
22 about another driver and I don't think it's an appropriate
23 question.

24 MR. HEARN: Same objection.

25 MS. WHITE: You can answer.

1 MR. SKAFF: You can answer.

2 A I mean, everybody does things different. I
3 mean, I can explain to do it one way and you will do it
4 another. I can't really say --

5 Q But there's no question that you suggested to
6 them that they wait until the morning to do it?

7 A Yeah.

8 Q Or wait until light?

9 A Wait until light and see what we can do to
10 figure out how we're going to do it.

11 Q Let me go back. So you saw -- you feel pretty
12 comfortable Mr. Martinez was logging something on the way
13 back?

14 A I know he did one, but I don't know.

15 Q Here is my question to you. Do you know what
16 happened to it?

17 A No.

18 Q Do you know if he turned it in to Mr. Salinas?

19 A No.

20 Q And let me back up. I'm sorry I didn't finish
21 the question I was asking you.

22 I know you told me about the beacon, but
23 did you see any warning triangles or flares --

24 A No.

25 Q -- or anything like that being used that morning

1 or evening?

2 A No.

3 Q Do you know whether there were any warning
4 triangles or flares or cones in the tractors, either of
5 the tractors?

6 A The ones that I drive does have.

7 Q So there were some available?

8 A Yeah.

9 MR. FRANKL: Let him finish his question
10 before you answer.

11 MR. SKAFF: I'm sorry.

12 Q (By Mr. Skaff) When you all were driving the SMC
13 tractor up to Virginia on that trip it was clearly marked,
14 had SMC on it, that sort of thing?

15 A Yes, sir.

16 MR. FRANKL: Objection, he didn't testify
17 he was driving.

18 Q I apologize. That you were riding in on the way
19 up?

20 A Yeah.

21 Q It had SMC markings on it?

22 A Yes.

23 MR. DUNN: Let me note an objection as far
24 as foundation -- or excuse me, form of the question
25 because when you say markings you might want to get a

1 little more specific on that.

2 Q (By Mr. Skaff) What color was the tractor that
3 you all drove from Texas to Virginia, do you have any
4 recollection?

5 A Well, the one that I rode in was black.

6 Q Did it have any kind of lettering or anything
7 that would indicate the company that it was owned by or
8 operated by?

9 A Yes, sir.

10 MR. DUNN: Object to the form, compound
11 question.

12 Q (By Mr. Skaff) Did it have any markings on it
13 that indicated who may have owned the truck?

14 A Yes, it said SMC on the side.

15 Q Did it have any markings that would indicate who
16 might have operated the truck?

17 A SMC is the one that operates.

18 Q And did it have SMC on it?

19 A Yes.

20 MR. DUNN: Object to the form of the
21 question on operation. You haven't layed a foundation for
22 that.

23 Q (By Mr. Skaff) Do you know the truck that you
24 would typically drive, do you know the make, make and
25 model, year, that sort of thing?

1 A The one that I drive?

2 Q Yes, sir.

3 A 2000 Peterbilt.

4 Q Do you have any recollection about what time it
5 was that you all left Houston on the way to Virginia?

6 A No, I was asleep at the time.

7 Q How long did it -- do you have any recollection
8 about how long it took you all to get up to the rest area?

9 MR. FRANKL: He's not asking you to
10 calculate. He's asking if you have a recollection as to
11 how long it took?

12 A Say about another day.

13 Q A day?

14 A Yeah.

15 Q Generally, how long does it take you to get from
16 Texas up to Virginia?

17 A With one driver it takes two and a half days.

18 Q But with multiple drivers it can be shorter?

19 A Yeah.

20 MR. SKAFF: That's all the questions I have
21 at this time. Thank you.

22 EXAMINATION

23 BY MR. DUNN:

24 Q Mr. Lozano, going back to some questions asked
25 by Mr. Skaff dealing with operating that Black

1 Freightliner truck on the trip to Virginia, no one from
2 SMC was operating that truck, right?

3 A No.

4 Q You agree with me?

5 A Yeah, I agree.

6 Q And you never worked for SMC Transport, have
7 you?

8 A No, I haven't.

9 Q That trip to Virginia around October 26th was
10 not for SMC Transport, correct?

11 A No, it was a favor that Sergio did for Roy.

12 Q On that day it was really like you said, it was
13 helping out Roy Salinas?

14 A Yeah.

15 Q And no one from SMC Transport went on the trip
16 with you, correct?

17 A No one.

18 Q You agree with me on that?

19 A Yes, sir.

20 Q No one from SMC transport was telling you what
21 to do on that trip up to Virginia, correct?

22 A Nobody told me. Nobody said anything.

23 Q Nobody from SMC Transport was giving you
24 instruction about where to go, what to do with this truck
25 up in Virginia, correct?

1 A Yeah.

2 Q You agree with me?

3 A Yeah.

4 Q You said you know who Sergio Cuellar is, right?

5 A Yeah.

6 Q Did you ever hear Sergio Cuellar talking to
7 anyone about this trip to Virginia and using the SMC
8 Transport vehicle?

9 A No.

10 Q You didn't talk to Sergio Cuellar about that,
11 did you?

12 A No.

13 MR. DUNN: Thank you very much.

14 MR. HEARN: Is that it?

15 MR. DUNN: For right now.

16 EXAMINATION

17 BY MR. HEARN:

18 Q Mr. Lozano, my name is David Hearn. I'm a
19 lawyer from Virginia. I represent Israel Martinez.

20 When you got to the rest stop in Virginia
21 after you helped unhook the SMC and Salinas units, did you
22 ever see Art Gutierrez get out and look at Roy Salinas's
23 disabled vehicle to check it out?

24 A No.

25 Q Now, he's a mechanic, right?

1 A Yeah.

2 Q Was it your understanding that he was coming on
3 this trip to see if he could fix the truck?

4 A In case they had problems on the way back down
5 he'd be there.

6 Q Okay. Did you ever see him do anything with
7 that vehicle?

8 A Not on the spot.

9 Q Do you know whether or not he checked out the
10 disabled Salinas truck?

11 A Well, we knew that the rear end went out.

12 Q I guess my point is or I guess what I'm asking
13 is, do you know what, if anything, Art Gutierrez did to
14 look at the Salinas vehicle?

15 A No, he just helped them hook up mainly help them
16 out there.

17 Q Okay. After the -- so you go to the rest room,
18 correct?

19 A Yeah.

20 Q And it's your testimony you're in the rest room
21 when the accident happens, correct?

22 A Yeah.

23 Q Did you hear anything while you were in the rest
24 room?

25 A No, they pretty much sound proof in there.

1 Q Okay. And when you come out your first, first
2 indication you've got there's been an accident you see and
3 hear something, correct?

4 A I saw a moving truck on the highway?

5 Q Okay. And what alerted you that there had been
6 a collision? Could you see disabled vehicles?

7 A The lady on the side.

8 Q She told there had been an accident?

9 A She said there had been an accident.

10 Q So at that point you don't know what's happened?

11 A No.

12 Q Okay. Did you go and check on your friends?

13 A No.

14 Q Did you know whether or not they were injured?

15 A No.

16 Q So your first instinct was not to check on them,
17 was to go straight to your truck?

18 A Well, like I said, I saw Israel on the side of
19 the truck.

20 Q Okay. So you could see Israel?

21 A I saw them standing there around the side of the
22 truck.

23 Q Who is them?

24 A Roy, Art and Israel.

25 Q Okay. So you could visually see all three?

1 A I saw all three standing there.

2 Q Let me finish my question. I know you're trying
3 to give me helpful answers and I appreciate that, but if
4 we talk at the same time it's hard on the court reporter.

5 So you did actually look and locate
6 visually Israel Martinez, correct?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes.

10 Q Where was he standing?

11 A Right about between both of the trucks.

12 Q Okay. So he was out of vehicle?

13 A Yeah.

14 Q And did you also visually locate Roy Salinas?

15 A Roy was at the corner of this little grass
16 section.

17 Q Okay. And what was he doing when you saw him?

18 A Walking back this way.

19 Q Walking towards you?

20 A Yeah.

21 Q Okay. And did he ever -- did he ever come and
22 meet up with you before you went to your truck?

23 A I think he did.

24 Q Okay. And did he say anything to you?

25 A He just said it's a mess.

1 Q Okay. Did you ask him what he meant by that?

2 A I said I don't want to get involved.

3 Q You didn't ask him what happened?

4 A No.

5 Q Did he volunteer anything to you?

6 A He didn't say anything.

7 Q Where did he go?

8 A He stuck around my truck for a little while and
9 then I guess when the trooper showed up asked him for the
10 information of his truck, he went and gave it to him.

11 Q Roy and went and gave some information to the
12 trooper?

13 A The paperwork, all that of the truck.

14 Q Did you ever see where Roy went or what he did
15 after he gave information to the trooper?

16 A They, I looked out my mirror, they hanging
17 around the back end of my trailer.

18 Q Did Roy ever get up in your truck with you?

19 A He might have got in to use the phone, but I
20 didn't pay attention.

21 Q Who was Roy calling on the phone?

22 A I think he called Rudy.

23 Q Was that before the trooper released you from
24 the scene?

25 MR. FRANKL: Objection to the form of the

1 question. He was never held at the scene.

2 Q (By Mr. Hearn) Was it before you left the truck
3 stop? Excuse me. Was it before you left the rest area?

4 A Yeah, before we left.

5 Q Were the police still there at the scene when
6 Roy was on the phone with Rudy?

7 A Yes.

8 Q Okay. Could you overhear anything that Roy said
9 to Rudy on the phone?

10 A No.

11 Q How long was that call?

12 A Might have been about two minutes.

13 Q Did he only make one call or make more than one
14 call?

15 A When he was in my truck, one.

16 Q Okay. When he was in the truck with you, did he
17 say anything to you about what he observed?

18 A No.

19 Q Did he say anything to you about what he was
20 doing before the accident happened?

21 A No.

22 Q Did you ask him any questions?

23 A I was just saw him standing right there at the
24 bottom.

25 Q Okay. But did you ask him any questions when he

1 was in the truck with you?

2 A No, he just got in there to use the phone and
3 got back off.

4 Q Where did he go after he got off your truck?

5 A They were hanging around in the back of the
6 trailer.

7 Q When you came out of the rest area, did you also
8 visibly locate Art?

9 A Art was on -- around this side of the truck.

10 MR. SKAFF: Can you --

11 MR. HEARN: Turn that toward the camera.

12 THE RESPONDENT: I would say?

13 A Towards the highway from the truck facing north.

14 Q Okay. And what was he doing?

15 A Walking back off.

16 Q Was he walking back the same direction as Roy?

17 A Roy walked this way along the grass --

18 Q To the camera.

19 A And then Art was running -- walking alongside
20 this side of the truck and in between the other trailers
21 that were there.

22 Q Did Art ever come up to you on his way back to
23 the truck?

24 A After a while he jumped in and got in the bed
25 also.

1 Q Okay. And when Art got in the truck, did he say
2 anything to you about what had happened?

3 A No, he just looked like he was a little bit
4 hysterical.

5 Q He looked upset?

6 A Yeah.

7 Q Did you check on him to see if he was okay?

8 A I just asked him if was all right. He said I
9 didn't like what I saw.

10 Q Did you ask him what you he saw?

11 A No.

12 Q Did he tell you anything about what he was doing
13 or what he observed?

14 A He just said that he tried to get the guy to
15 come with him to get out of the highway, to get him away
16 from the highway.

17 Q Did he tell you what guy he was talking about?

18 A No, he didn't.

19 Q Was it your impression he was talking about
20 somebody that was involved in the accident?

21 A Yeah.

22 Q Now since the day of this accident, have you had
23 any discussions with Art about what happened?

24 A No.

25 Q Has he ever volunteered to you or told you what

1 happened?

2 A No.

3 Q Have you seen Art since this accident?

4 A No.

5 Q What about Roy? Since the accident happened has
6 Roy told you anything that occurred?

7 A He never said anything about it.

8 Q You still work with Roy, right?

9 A Yeah.

10 Q You guys work together daily?

11 A Well, we work in the same company, but we're not
12 in the same area most of the time.

13 Q All right. But he's never said anything to you
14 about the accident?

15 A No.

16 Q Have you ever asked him anything?

17 A No.

18 Q What about Israel, since the accident happened,
19 have you had an occasion to see Israel and talk to him?

20 A I've been back to work. I've known he's been
21 there back at the yard and got arrested and then after
22 that they say he just stopped showing up.

23 Q He did a couple loads working for Salinas?

24 A Yeah.

25 Q And on one of those trips he came up to Virginia

1 and got arrested?

2 A Yes.

3 Q Some time after that event, he stopped working
4 for the company?

5 A I didn't see him or hear about him being there
6 anymore.

7 Q But have you ever talked with him about what
8 happened in the accident?

9 A No.

10 Q Has he ever told you anything about it?

11 A No.

12 Q What about Sergio, have you ever spoken with
13 Sergio?

14 A No.

15 Q Have you ever said anything to him about the
16 trip about what happened?

17 A No.

18 Q How about Rudy? Have you talked to Rudy about
19 the accident?

20 A Never asked me anything about it.

21 Q Did he ever tell you anything that he knew about
22 the accident?

23 A No.

24 Q All right. Does Salinas own or operate a white
25 Volvo unit?

1 A They got two of them there.

2 Q Oh, okay. And who drives those trucks?

3 A Right now my brother-in law one of them and the
4 other one Rudy had it, drove it.

5 Q Okay.

6 A There was another driver there, but he quit.

7 Q Have you ever known anyone else to drive Rudy's
8 white Volvo truck?

9 A Riche Vela.

10 Q Have you ever known Israel to drive it?

11 A I think he -- well, the time he went with me
12 and, like I said, after that I was never at the office so
13 I don't know who was driving what truck.

14 Q Okay. Let me ask you a little bit more about
15 that.

16 Has anyone ever told you anything about
17 what work Israel was doing for the company before this
18 accident?

19 A I know he helped us out.

20 Q Who told you that?

21 A He helped me drive once.

22 Q Okay. Did anyone ever tell you anything else
23 about what he did for the company?

24 A No.

25 Q Okay. Did you ever see Israel at the Salinas

1 facility, not driving, but just see him at the facility?

2 A I saw him helping Rudy several times there
3 working on tires.

4 Q Okay. That was at the yard?

5 A Yeah.

6 Q Was that before this accident?

7 A Yeah.

8 Q Did you ever see him at the Salinas yard doing
9 anything after this accident?

10 A I wasn't there.

11 Q Do you know Israel's wife Lilly?

12 A I met her a time or two.

13 Q But you didn't go to school with her or
14 anything?

15 A No. Only times I met her he was with her.

16 Q All right.

17 MR. HEARN: All right. That's all my
18 questions.

19 REEXAMINATION

20 BY MR. SKAFF:

21 Q I have just a couple of follow up questions.

22 Do you have any knowledge or information
23 about Mr. Martinez being disciplined as a result of this
24 incident?

25 MR. HEARN: Objection.

1 A I don't know.

2 Q Were you disciplined in any way as a result of
3 this incident?

4 A By what do you mean, disciplined?

5 Q Did you get in trouble in any way because the
6 accident occurred?

7 A Not that I know.

8 Q Okay. When you all were initially loading the
9 SMC truck was being loaded at the stop before you went to
10 Houston, did you overhear Mr. or Sergio say anything
11 about any of this?

12 MR. DUNN: Objection, asked and answered.

13 Go ahead and answer.

14 A No.

15 Q (By Mr. Skaff) All right. That's all I have.
16 Thank you.

17 MR. FRANKL: You are free to go.

18 THE VIDEOGRAPHER: The time is 6:53 and we
19 are off the record.

20

21 (Signature having been not requested, the
22 deposition was concluded at 6:53 p.m.)

23

24

25

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6 I declare under penalty of perjury that the
7 foregoing is true and correct.
8
9

10 EDUARDO LOZANO
11
12

13 SUBSCRIBED AND SWORN TO BEFORE ME, the
14 undersigned authority, by the witness, EDUARDO
15 LOZANO, on this the _____ day of
16 _____, _____.
17

18 NOTARY PUBLIC IN AND FOR
19 THE STATE OF _____
20

21 My Commission Expires: _____
22
23
24
25

1 REPORTERS CERTIFICATION
2 OF EDUARDO LOZANO
3 April 18, 2016

4 I, Annette E. Escobar, Certified Shorthand
5 Reporter in and for the State of Texas, hereby certify to
the following:

6 That the witness, EDUARDO LOZANO was duly
7 sworn by the officer and that the transcript of the oral
8 deposition is a true record of the testimony given by the
9 witness;

10 That the deposition transcript was not
11 requested for examination and signature on the record by
12 the witness or by the attorney for the witness as required
13 by Federal Rules of Civil Procedure 30 (e); therefore,
14 submitted to the taking attorney Mr. Skaff for
15 safekeeping.

16 That the amount of time used by each party
17 at the deposition is as follows:

18 VICTOR SKAFF (1H10M) Attorney for
Plaintiff.
19 LAWRENCE DUNN (0H05M) Attorney for
Defendant;
20 DAVID HEARN (0H45M) Attorney for Defendant.

21 That pursuant to information given to the
22 deposition officer at the time said testimony was taken,
23 the following includes counsel for all parties of record:

24 Victor Skaff, Attorney for Plaintiff(s)
Lawrence Dunn, Attorney for Defendant(s)
David Hearn, Attorney for Defendant(s)

1

2 I further certify that I am neither counsel
3 for, related to, nor employed by any of the parties in the
4 action in which this proceeding was taken, and further
5 that I am not financially or otherwise interested in the
6 outcome of this action.

7 Certified to by me on this 7th day of May,
8 2016.

9
10 
11 ANNETTE E. ESCOBAR
12 CSR#5475, Exp: 12/31/17
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